

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JUAN VARGAS AND HILDA VARGAS,

Plaintiffs,

No. C 12-02008 WHA

v.

WELLS FARGO BANK, N.A., AKA  
WACHOVIA MORTGAGE, A DIVISION OF  
WELLS FARGO BANK, N.A. AND F/K/A  
WACHOVIA MORTGAGE FSB, FORMERLY  
KNOWN AS WORLD SAVINGS BANK, FSB,  
AS BENEFICIARY; CAL-WESTERN  
RECONVEYANCE CORPORATION, a  
CALIFORNIA CORPORATION and all persons  
claiming by, through, or under such entities or  
persons; and all persons unknown, claiming any  
legal or equitable right, title, estate, lien, or  
interest in the real property described in the  
complaint adverse to Plaintiffs title thereto, and  
DOES 1 through 100, inclusive,

**ORDER REQUIRING  
SUPPLEMENTAL BRIEFING**

Defendants.

At oral argument, the parties were instructed to concurrently file mandatory supplemental briefs regarding several under-developed issues in their briefing. The supplemental briefs should address the following:

(1) The decisional law, both under state and federal, regarding whether rescission is the exclusive remedy for violation of California Civil Code Section 1632.

(2) The legislative history of Section 1632 and whether or not the legislative history answers the above question regarding exclusive remedy.

1 (3) The general manner in which state courts, meaning the California Court of Appeal or  
2 California Supreme Court, have treated the situation we have here, where a statute provides a  
3 permissive remedy and is otherwise silent as to whether there are other remedies.

4 (4) Whether plaintiffs are prepared to tender, and the amount that would be required  
5 under the law to effectuate tender.


6 (5) The effect, if any, the foreclosure sale has on the Section 1632 claim. Please provide  
7 information as to whether the foreclosure sale occurred before or after the lawsuit was filed.

8 (6) The history of the property in relation to the plaintiffs, including the financial history  
9 of the loans and payments made on those loans.

10 The parties must submit the supplemental briefs by **NOVEMBER 2** at **NOON**. Either side  
11 may, but is not required to, file a reply brief that is limited to three pages. The deadline for filing  
12 the reply brief is **NOVEMBER 5** at **NOON**.

13  
14 **IT IS SO ORDERED.**

15  
16 Dated: October 25, 2012

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE